

REMARKS

Status of the Application

Claims 1-40 are now pending, a total of 40 claims. Claims 1, 9, 10, 18, 27, 28, and 40 are independent. Claims 1-26 have herewith been amended and claim 27-40 have been added. The amendments to the claims are supported by the application as filed. Accordingly, entry of the amendments is respectfully requested. Applicants petition for a three month extension of time and authorize any necessary fees not accompanied herewith to be withdrawn from Deposit Account No. 50-3938, with Order No. CF/040 – 01-1040. Accordingly, this reply is timely.

The claims are amended to meet certain points in the Office Action that appear to lack any statutory grounding, and to recite particular embodiments that Applicants, in their business judgment, have determined to be commercially desirable. The claim amendments have not been submitted for any reason relating to patentability, or to overcome any rejection. Applicants reserve the right to pursue the subject matter of the previously presented, and of the previously or currently cancelled claims in one or more continuing applications.

Drawings

The application was filed with 13 sheets of formal drawings, Figs. 1-13, on October 17, 2001. The drawings filed on January 9, 2003 were not and should not be entered as replacement or amended drawings. The drawings now pending in the application are those originally filed on October 17, 2001, which include all 13 figures. Therefore, Applicants respectfully request clarification or withdrawal of this objection.

Paragraphs 7-8

Paragraphs 7-8 compare claim 1 to U.S. Patent number 6,618,707 to Gary (hereinafter, “Gary”). Applicants respectfully request reconsideration of this claim.

Independent claim 1 recites, in part “in response to the command, presenting to the aggressor party, by means of the electronic trading system, an obligation to make a market in the item.”

In contrast, Gary discloses a system for matching orders to buy and sell financial instruments, such as options contracts (Gary at Abstract). Nowhere in the cited sections of Gary is it disclosed or suggested that any market participant is obligated to anything at all regarding the trading system.

Accordingly, by reciting “in response to the command, presenting to the aggressor party, by means of the electronic trading system, an obligation to make a market in the item,” independent claim 1 patentably distinguishes over Gary. Applicants therefore respectfully request withdrawal of the rejection of independent claim 1.

Independent claims 9, 10, 18, 26, and 27 include similar limitations, and therefore patentably distinguish Gary for at least similar reasons. Applicants therefore respectfully request withdrawal of the rejections of these claims as well

Claims 2-8, 11-17, and 19-25 depend on claims 1, 9, 10, 18, 26, and/or 27 discussed above, and are patentable therewith. In addition, they recite further limitations that further distinguish the art. Applicants respectfully request withdrawal of any rejections of these claims also.

Paragraph 15

Applicants traverse the assertion of Official Notice. Applicants request “substantial evidence” of any fact used to reject any claims, as required by the Board of Appeals and the Office’s reviewing courts, *e.g.*, *Universal Camera Corp. v. Nat’l Labor Relations Bd.*, 340 U.S. 474, 487-88 (U.S. Sup. Ct. 1951)

Conclusion

Applicants request that the application be passed to issue in due course. The Examiner is urged to telephone Applicants' undersigned representative at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicants petition for any extension of time required to make this reply timely. Kindly charge any additional fee, or credit any surplus due for any reason, to Deposit Account No. 50-3938, Order No. 01-1040.

Respectfully submitted,

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